United Nations A/AC.105/C.2/L.293/Rev.2

General Assembly

Distr.: Limited
16 April 2014

Original: English

Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Fifty-third session
Vienna, 24 March-4 April 2014
Agenda item 14
Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fourth session

Proposal for a renewal of the structure of the agenda and the organization of work of the Legal Subcommittee

Working paper submitted by Germany

I. Introduction

1. Initial ideas leading to the present proposal were discussed during the session of the Legal Subcommittee held in 2013 and further elaborated by means of consultations on the margins of the session of the Committee on the Peaceful Uses of Outer Space held in 2013 and the session of the Scientific and Technical Subcommittee held in 2014. The proposal was introduced to the Legal Subcommittee during its session held in 2014 as document A/AC.105/C.2/L.293, and subsequently issued as A/AC.105/C.2/L.293/Rev.1, and formally presented by the German delegation and discussed by the Legal Subcommittee. Upon receiving comments and questions from delegations, a presentation was given for the purpose of providing clarifications and explanations. The present document merges the most recent version of the proposal (A/AC.105/C.2/L.293/Rev.1) with respective explanatory elements as made in the presentation. It is aimed at providing the basis for an agreement to be achieved in the period leading up to the session of the Legal Subcommittee to be held in 2015.

V.14-02496 (E)

Please recycle

II. Background and purpose of the proposal

2. The present proposal to restructure the agenda of the Legal Subcommittee and to organize the work of the Subcommittee in a phased way is aimed at the following:

(a) Maintaining and strengthening the Legal Subcommittee as the main intergovernmental forum for developing space law;

(b) Maintaining and making more efficient use of a period of two weeks for the session for the Subcommittee;

(c) Providing all member States with better opportunities to raise and deal with matters of concern and provide more flexible and substantive mechanisms to do so.

3. It is therefore proposed to simplify the agenda structure and to establish a two-phased approach to the two-week session of the Subcommittee.

III. Restructuring the agenda

4. The Legal Subcommittee has made better progress in its work since the current agenda structure was established in 1999 following a period of very slow progress. This has been achieved, in particular, through the establishment of workplans and a more flexible way of having single issues/items for discussion. However, the current status is that the agenda is neither reactive nor dynamic. Indeed, the interest in discussing more thoroughly the status and application of non-binding instruments and cooperation mechanisms shows the need to accommodate such discussion, to an even greater extent than is possible under the recently established workplans.

5. The positive experience with the agenda item on the status and application of the five United Nations treaties on outer space should promote the creation of a standing agenda item on non-binding instruments, with the establishment of an associated permanent working group. A number of current agenda items could be incorporated under these two agenda items, which would provide an opportunity to integrate less productive agenda items.

6. The new agenda would therefore comprise as permanent items the following:

Item 1. General exchange of views, including perspectives of further development of space law.

Item 2. Status and application of the five United Nations treaties on outer space and other legally binding instruments, including national space legislation, by States and international intergovernmental organizations (working group).

Item 3. Status and application of the non-binding instruments developed in the Committee on the Peaceful Uses of Outer Space and other non-binding legal instruments relevant to outer space by States and international intergovernmental organizations (working group).

Item 4. Capacity-building in space law and information on activities of international intergovernmental and non-governmental organizations.

7. In addition, one workplan remains on the agenda until it expires in 2017, and one item is so far foreseen as a single issue/item in 2014 and 2015:

Item 5. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.

Item 6. National measures to implement non-legally binding instruments for outer space activities.

8. The restructuring of the agenda, showing the inclusion of the current agenda items, is set out below:

Item 1. General exchange of views, including perspectives with regard to further development of space law:

(a) The general exchange of views should deal with overall issues and, in particular, with the views of delegations on the progressive development of space law;

(b) The general exchange of views would be scheduled for full days on both Mondays of the session, thus providing the equivalent time as in the current structure; the item will remain open for delegations that wish to take the floor on other days;

(c) Discussions of the work of the working groups in plenary would take place on Thursday and the report would be adopted on the Friday of the second week.

Item 2. Status and application of the five United Nations treaties on outer space by States and international intergovernmental organizations:

(a) The work would be conducted in a permanent working group, chaired by a suitable candidate, taking into consideration the current Chair (Belgium) of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space;

(b) The item would incorporate the 2013 and 2014 agenda items of the Legal Subcommittee on national legislation relevant to the peaceful exploration and use of outer space, and on the examination and review of the developments concerning the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets.

Item 3. Status and application of the non-binding instruments developed in the Committee on the Peaceful Uses of Outer Space and other legal instruments relevant to outer space by States and international intergovernmental organizations:

(a) The work would be conducted in a permanent working group, chaired by a suitable candidate, taking into consideration the current Chair (Brazil) of the Working Group on Matters Relating to the Definition and Delimitation of Outer Space;

(b) The item would incorporate the 2013 and 2014 agenda items of the Legal Subcommittee on the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and on the general exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee;

(c) The item would also incorporate the agenda item of the Legal Subcommittee on matters relating to: (a) the definition and delimitation of outer

space, and (b) the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union, and the work of the Working Group on Matters Relating to the Definition and Delimitation of Outer Space;

(d) The item would later incorporate the results of the agenda items of the Legal Subcommittee on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space, and on the general exchange of information on non-legally binding United Nations instruments on outer space, following their completion in 2017 and in 2014 and 2015, respectively.

9. The two working groups to be established would organize their work in a way that would allow member States of the Committee to raise issues and propose formats for deliberating on them. It would facilitate the discussion of new items and avoid a cumbersome process for setting the agenda. It would also reduce the need to put issues into workplans, which are not suited for such an approach, thus avoiding the creation of workplans with a rather schematic sequence of providing information in the first year, discussion in the second year and conclusions in the third year. Under this concept, the current method of single issues/items for discussion would be equivalent to deliberations on an issue for only one year in a working or preparatory group.

10. The full benefit of such a new structure can be achieved through a new, phased approach for the two-week period of the session of the Legal Subcommittee as proposed in the following section.

IV. Phased approach for the two-week session of the Legal Subcommittee

11. The present proposal maintains a two-week session for the Legal Subcommittee. All activities during these two weeks (plenary exchanges, preparatory groups and working groups) are an integral part of the Subcommittee and therefore all deliberations take place at the level of delegation. The two phases (weeks) are therefore distinguished primarily by the level of deliberations.

12. The current sessions of the Legal Subcommittee experience and suffer (much more than the Scientific and Technical Subcommittee and the Committee on the Peaceful Uses of Outer Space) from strong participation during the first two days and the last two days of the session, but low participation in the days in between. In order to intensify and concentrate the exchange of views between governmental representatives it is proposed that:

(a) The first week would be dedicated to preparatory groups and, on the Friday of that week, the symposium organized by the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL);

(b) The second week would be dedicated to deliberations of the working groups and the plenary.

13. During the second week, the deliberations of member States would follow the new agenda structure as outlined above. The two permanent working groups would

discuss issues that have been previously identified and would, for the purpose of having substantive debates, set up preparatory groups, which would prepare the discussion of items in the working groups. These preparatory groups could be set up in a similar way to the expert groups established under the Scientific and Technical Subcommittee Working Group on the Long-term Sustainability of Outer Space Activities (see A/66/20, annex II).

14. These preparatory groups would:

(a) Work during the first week based on a precise and exact mandate from the working groups;

(b) Be composed of representatives nominated by member States of the Committee and observers to the Committee (including persons from non-governmental institutions but who are accredited as members of delegations);

(c) Work under the guidance of a chair nominated by the respective working group;

(d) Include, as appropriate, experts from the scientific and technical field, thus potentially linking the Scientific and Technical Subcommittee and the Legal Subcommittee (the link between the Scientific and Technical Subcommittee and the preparatory groups could also be accommodated by, for example, inviting the chairs of the working groups of the Scientific and Technical Subcommittee in their respective capacities to provide inputs to the preparatory groups);

(e) Also be able to communicate intersessionally, as appropriate;

(f) Prepare a report (of a maximum of three to four pages long), which will be a compilation by the chair of the views expressed and will be brought to the attention of the respective working groups.

15. The number of preparatory groups should be four at the outset, but could change upon a decision by the Legal Subcommittee.

16. Comparable models have been successfully applied in the Committee, not only for the item on the long-term sustainability of outer space activities, but also for the items on near-Earth objects and use of nuclear power sources in outer space.

17. One half-day meeting for each preparatory group would be held separately, with translation services. That schedule would allow smaller delegations to follow all of the preparatory groups.

18. The reports of the preparatory groups should be ready for processing at the latest by Thursday afternoon of the first week. Deliberations on those reports will start at the earliest on the Tuesday of the second week, which provides time for editing and translation.

19. Since the requirements for the Secretariat will be high in preparing the preparatory group reports for the second week, facilitations for the Secretariat could be foreseen, for example by streamlining the report of the Legal Subcommittee, omitting separate annexed reports by the working groups and having only one, integrated report (including preparatory group reports and working group decisions of around two pages each) of around 25 pages.

20. A generic schedule for the first week would look as follows:

	Monday	*Tuesday*	*Wednesday*	*Thursday*	*Friday*
a.m.	Opening of the session and general exchange of views, including perspectives of further development of space law	Preparatory group 1	Preparatory group 3	Preparatory groups 1 and 2, one after the other, to finalize their reports	IISL/ECSL symposium
p.m.	General exchange of views, including perspectives of further development of space law	Preparatory group 2	Preparatory group 4	Preparatory groups 3 and 4, one after the other, to finalize their reports	IISL/ECSL symposium

21. A generic schedule for the second week would look as follows:

	Monday	*Tuesday*	*Wednesday*	*Thursday*	*Friday*
a.m.	General exchange of views, including perspectives of further development of space law	Working group 1	Working group 2	Capacity-building and other matters	Adoption of the report of the Legal Subcommittee
p.m.	General exchange of views, including perspectives of further development of space law	Working group 1	Working group 2	Adoption of decisions of working groups 1 and 2, one after the other	Adoption of the report of the Legal Subcommittee

22. If adopted in 2015, this new approach could be implemented from 2017 onwards, in that in 2016 the first set of preparatory groups would be established, which would report in 2017 to the two working groups. The session in 2016 would follow current arrangements but would identify the first set of topics for the preparatory groups. This timeline would also provide the opportunity to reflect potential issues to be taken up from the Scientific and Technical Subcommittee item on the long-term sustainability of outer space activities.

V. Basic procedures, interrelation and interaction between the plenary and the preparatory and working groups

23. In order to clarify procedures and the interrelation and interaction between the new bodies proposed, the following paragraphs elaborate the main mechanisms and terms of reference.

Agenda setting

24. Topics for the preparatory groups would be identified in the working groups, to be submitted as proposals for consideration to the plenary, and in the plenary under the general exchange of views. Decisions on topics to be discussed in the preparatory groups would be taken by the plenary under the agenda item "Adoption of the report".

25. The plenary would establish a balanced distribution of topics among the preparatory groups. The first set of topics and chairs for preparatory groups would be decided by the Legal Subcommittee under the current agenda item "Proposals to the Committee on new items to be considered by the Subcommittee" in the year before the implementation of the new agenda structure.

Status and outputs of the preparatory groups

26. The work conducted in the preparatory groups would constitute an integral part of the sessions of the Legal Subcommittee. Participants in the preparatory groups would be members of delegations. International intergovernmental and non-governmental organizations with permanent observer status to the Committee could also participate as observers. Member States would be invited to include in their delegations delegates with a scientific and technical background, thus improving synergies with the Scientific and Technical Subcommittee.

27. The suggested duration of the consideration of each topic by a preparatory group, as well as the proposals for chairs for preparatory groups, could also be put forward by the working groups for consideration by the plenary. The chair of a preparatory group should be a person who is very well acquainted with the topics under discussion in the preparatory group.

28. The output of a preparatory group would be a "report by the chair", which would be a compilation of views expressed and an assessment of the topic which would be useful as a basis for deliberations in the working group to which the preparatory group would be assigned. The report should be no longer than three to four pages. Since the report would reflect the views expressed, there would not be a necessity to reach a formal consensus within the preparatory groups. The reports of the preparatory groups would be submitted to the respective working groups and annexed to the report of the Legal Subcommittee. The reports of the preparatory groups would not express the binding commitment of member States to any positions and would constitute a non-exclusive basis for the deliberations in the working groups.

Status and outputs of the working groups

29. Participants in the working groups would be members of delegations. International intergovernmental and non-governmental organizations with permanent observer status to the Committee could also participate as observers. The working groups would be the place for the preparation of decision-making in the plenary, based on an exchange of views among member States. Deliberations in the working groups could also serve to initiate the drafting of new legal texts. The reports of the working groups would in essence reflect conclusions and recommendations, and would be around two pages in length.

Plenary

30. The plenary would remain the decision-making body of the Legal Subcommittee. The general exchange of views would be scheduled for two full days on both Mondays of the session, thus allowing it the equivalent time as under the current agenda structure. The item would also remain open during the second week for delegations wishing to speak then.

Other matters

31. Sessions of the Legal Subcommittee would continue to benefit from conference services, including interpretation and recordings, for all activities, comprising the preparatory groups, working groups and the plenary.

32. The organization of the IISL/ECSL symposium as a full-day event, thereby returning to the previous practice, equivalent to two afternoon sessions, would allow the Secretariat the necessary time to prepare and arrange for the translation of the reports of the preparatory groups for Tuesday morning of the second week.

33. The current agenda item, with an associated working group, on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space would, in 2016 and 2017, take the space of one preparatory group.

34. A review of the new structure could tentatively take place in 2019.

VI. Summary

35. The advantages of this model, to be decided in 2015 and to be implemented from 2016 (based on a decision in 2016 on issues for 2017), combined with the new agenda structure would be:

(a) A more flexible way of taking up issues of concern to delegations;

(b) A more substantive debate based on preparations taking place as an integral part of the session;

(c) A better insight into the issues for, in particular, smaller delegations with fewer resources, since they would benefit from the work of the preparatory groups, which they could also follow;

(d) A stronger reflection of scientific and technical aspects, integrated into the preparations;

(e) A more intensified debate in the deliberations of member States as a result of a more concentrated meeting period;

(f) A more thorough and adapted use of meeting time without reducing the session period.